tract with the United States government to dredge a channel in navigable waters. The submerged land, title to which was derived from an early colonial patent, had been leased to the plaintiff, and was being used by it as an oyster bed. *Held*, that the defendant cannot be restrained from proceeding under his contract, and that the plaintiff is not entitled to compensation. *Lewis Blue Point Oyster Cultivation Co.* v. *Briggs*, 91 N. E. 846 (N. Y.).

The title conveyed by the early grant from the king under which the plaintiff claimed was necessarily subject to the public right of navigation. See HALE, DE JURE MARIS, 1 HARGRAVE'S TRACTS, 36. The government of the United States succeeded to the control of navigation, hence all submerged land is held subject to this servitude. *Gibson* v. *United States*, 166 U. S. 269. It follows that there is no taking of property entitling to compensation, if, in the exercise of this right, the flow of the water is diverted, or its level raised so as to diminish the value of the land. *South Carolina* v. *Georgia*, 93 U. S. 4; *Crocker* v. *Champlin*, 202 Mass. 437. It is also generally held that the government may use even the submerged land itself to accomplish its purpose. *South Carolina* v. *Georgia*, *supra*. Such cases, however, could usually be based on the rule "*de minimis non curat lex*. See *Bent* v. *Emory*, 173 Mass. 495. But on the theory that the right to improve navigation necessarily includes the right to use the submerged land itself for that purpose, the weight of authority holds in accordance with the principal case that the rule as to compensation is the same even when substantial damage is done. *Lane* v. *Smith*, 71 Conn. 65. *Contra*, *Bent* v. *Emory*, *supra*.

BOOK REVIEWS.

INTERNATIONAL LAW. By George Grafton Wilson and George Fox Tucker. Fifth edition. New York: Silver, Burdett and Company, 1910. pp. xix, 505.

HANDBOOK OF INTERNATIONAL LAW. By George Grafton Wilson. St. Paul: West Publishing Company. 1910. pp. xxiii, 623.

These two books, largely by the same author, present the elementary doctrines of international law briefly and adequately. Each volume gives in an appendix the more important documents, from the Declaration of Paris, 1856, to the Declaration of London, 1909, including the Hague Conventions of 1907. In selection and order of topics treated in the text, the two works resemble each other. The chief diversity is that the larger volume gives rather numerous extracts from treaties and judicial opinions.

As international law still stands outside the ordinary lawyer's circle of studies, and must continue so to stand as long as its doctrines are indefinite or are not cognizable in national courts or in international tribunals of a distinctly judicial nature, the lawyer's chief interest in these volumes, which exhibit the subject in its latest development, is to ascertain to what extent international law has now become lawyer's law. The larger work, by presenting the leading principles in blackletter type, facilitates this inquiry, and seems to indicate that at least one-fifth of the subject has reached a condition which a lawyer must concede to be within the jurisdiction of lawyers and of courts.

Perhaps it will be well to give examples. A principle which cannot be called lawyer's law, but which must be stated in a treatise on international law, is: "The breaking of diplomatic relations is an evidence of strained relations between states, and is often the step preceding war." (Handbook, 229.) An example of a principle which any lawyer would call a proposition of law is:

"In order to incur liability for its breach, a neutral must have knowledge of the existence of a blockade." (Handbook, 444.)

To determine whether a principle is properly to be termed a proposition of law is not always easy, and it may be that the estimate of one-fifth would not gain unanimous approval; but it is certain that already a very considerable part of the subject is real law, that the documents in the appendices to these two volumes, as far as recognized by nations, are similar to statutes, that the decisions of national courts as to citizenship, prize, and other topics are similar to other judge-made law, that future international agreements and also decisions of international judicial tribunals will add similar matter, and that by and by international law will cease to be challenged when it seeks a place in the circle of legal science. For the present, only here and there will a lawyer pay attention to the subject; and that occasional lawyer will find either one of these volumes well adapted to his use.

A POCKET CODE OF THE RULES OF EVIDENCE IN TRIALS AT LAW. By John Henry Wigmore. Boston: Little, Brown and Company. 1910. pp. liii, 566. 16mo.

Professor Wigmore's four-volume "Treatise on the System of Evidence," which appeared in 1904–1905, was characterized by its reviewer in these pages as the "most complete and exhaustive treatise on a single branch of our law that has ever been written." The volume now under review is in the nature of a concise summary of the rules developed by the larger work, omitting the historical and theoretical chapter introductions of the latter, but maintaining in large degree its general characteristics and analysis. The peculiarity of Professor Wigmore's analysis and the oddity of his terminology were commented upon in a prior review. 18 HARV. L. REV. 478. The general practitioner who has culled his knowledge of the law of evidence from Stephen and Greenleaf feels ill at ease in reading of such monstrosities as "autoptic proference," "prophylactic rules," or "viatoral privilege." The author persists in the use of these unfamiliar terms, though they provoked much objection both in his notes to his edition of Greenleaf and in the larger "Treatise." Yet, as the "Treatise" has already established itself as the master authority on the law of evidence, so, in spite of its idiosyncrasies, the present "Code" must inevitably prove a most useful work of a type *sui generis*.

The author's object is twofold: "to provide the practitioner with a handy summary of the existing rules of evidence; and at the same time to state them in a scientific form capable of serving as a code." It is in the former capacity that the volume will prove most useful to the profession. Concise in statement, with a careful system of cross-referencing to bring out the many rules potentially applicable to a given problem, and with a thorough index, it is a handy tool for the hurried lawyer in the court-room. In form the "Code" is more like the familiar "Digest" of Sir J. F. Stephen than the shorter modern works — such as Hughes — intended for the student as well as for the practitioner. Though it does not purport to theorize, it reflects through an easily understood system of brackets the sometimes questioned opinions of the author as to "what is not yet the law anywhere but ought to be" and "what is the law in every jurisdiction but ought not to be law." The same typographical device is used to indicate the variances in the rules of different jurisdictions.

The present edition contains citations only to the author's more extensive treatise, providing by alternate blank pages space for annotations of decisions and statutes in the particular jurisdiction of the owner. A series of completely annotated "Local Editions" is promised: these will be awaited with eagerness.